

MAR 10 2008

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

MOLLY DWYER, ACTING CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CARLOS FARIAS,

Defendant - Appellant.

No. 06-50471

D.C. No. CR-05-00759-JFW

MEMORANDUM^{*}

Appeal from the United States District Court
for the Central District of California
John F. Walter, District Judge, Presiding

Submitted February 26, 2008^{**}

Before: BEEZER, FERNANDEZ, and McKEOWN, Circuit Judges.

Carlos Farias appeals from the 33-month sentence imposed following his guilty-plea conviction for health care fraud, in violation of 18 U.S.C. § 1347. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

We construe Farias' one paragraph argument to challenge the reasonableness of his sentence and to contend that the district court erred by failing to reduce his restitution amount. We conclude that Farias' sentence is reasonable. *See Gall v. United States*, 128 S. Ct. 586, 597-98 (2007). Additionally, because the restitution amount ordered was the amount contemplated in the plea agreement, and because Farias failed to object during sentencing, we conclude that the district court did not plainly err in determining the amount of restitution. *See United States v. Zink*, 107 F.3d 716, 719-20 (9th Cir. 1997).

AFFIRMED.